CHAPTER 3

Incarcerated Female: A Growing Population

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More than one million women in the United States are under some form of criminal justice supervision (Glaze & Bonzcar, 2007). By 2009, the number of women imprisoned in the United States increased 800% over the past three decades, bringing the number of women behind bars to over 105,000 (West, 2010). From 1995 to 2009 alone, the number of women behind prison bars increased 87%, and women now account for nearly 7% of the total prison population (see Table 3.1; Stephan, 2008; West, 2010). Over a third of them served time in the nation's three largest jurisdictions: Texas, California, and the federal system (West, 2010; see also Chesney-Lind, 2002, pp. 80–81). Currently, women also account for 23% of the

Table 3.1 Number of female prisoners under the jurisdiction of state or federal authorities, December 31, 2000-2009

Year	Total	Federal	State	Percent of sentenced prisoners
2000	85,044	8,397	76,647	6.4%
2001	85,184	8,990	76,194	6.3
2002	89,066	9,308	79,758	6.5
2003	92,571	9,770	82,801	6.6
2004	95,998	10,207	85,791	6.7
2005	98,688	10,495	88,193	6.7
2006	103,343	11,116	92,227	6.9
2007	105,786	11,528	94,258	6.9
2008	106,358	11,578	94,780	6.9
2009	105,197	11,780	93,417	6.8

Source: West & Sabol (2010). *Prisoners in 2009.* Washington, DC: Bureau of Justice Statistics.

probation population, 12% of the jail population, and 12% of the parole population in the United States (Glaze & Bonzcar, 2007).

Increases in the number of women in prison surpassed those of men over this period, as well. The number of women in prison has increased at nearly double the rate of men since 1985 (Sentencing Project, 2007). A similar pattern can be found in the number of women in jail, where a 32% increase was seen between 2000 and 2009; for men, the increase was 22% (Bureau of Justice Statistics, 2010a, 2010b).

The soaring numbers of women under lock and key are not simply products of the increasing reliance in the United States on imprisonment, although that has played a role in the pattern. Nationally, the rate of women's imprisonment is also at an all-time high. In 1925, women's rate of incarceration was 6 per 100,000. In 2001, the rate climbed to 58 per 100,000 and by 2009, the rate had reached an historical high of 67 per 100,000, with Hispanic and African American women experiencing even higher rates of incarceration (see Table 3.2). Taken together, these figures signal a major policy change in society's response to women's crime—one that has occurred with virtually no public discussion

So, as the number of people imprisoned in the United States continues to climb, our nation has achieved the dubious honor of having the highest incarceration rate in the world, with Russia following as a distant second (Mauer, 1999, 2006). Along

Table 3.2 Estimated number of sentenced prisoners under state or federal jurisdiction per 100,000 U.S. residents, by sex, race, Hispanic origin, and age, December 31, 2009

	Female Prisoners			
Age	Total	White	Black	Hispanic
Total	67	50	142	74
18–19	23	17	42	24
20–24	109	86	186	124
25–29	149	115	287	164
30–34	188	155	361	178
35–39	206	164	426	187
40–44	172	131	360	171
45–49	94	67	205	107
50–54	45	32	101	60
55–59	22	18	42	29
60–64	11	9	22	22
65 or older	3	2	6	4

Source: Bureau of Justice Statistics. (2010a). *Prisoners in 2009*. Washington, DC: U.S. Department of Justice.

the way, America's love affair with prisons has claimed some hidden victims—economically marginalized women of color and their children.

TRENDS IN WOMEN'S CRIME: A REPRISE

Is the dramatic increase in women's imprisonment a response to a women's crime problem spiraling out of control? A look at the pattern of women's arrests provides little evidence of a dramatic change in the composition of women's crime. One crude measure will serve to make this point again. The number of arrests of adult women for serious violent crime has only marginally increased (3.4%) between 2000 and 2009 (Federal Bureau of Investigation, 2010, p. 239). However, the number of women incarcerated during the past decade has increased by 24% (Bureau of Justice Statistics, 2010a, 2010b).

WOMEN, VIOLENT CRIMES, AND THE WAR ON DRUGS

Another indication that the increase in women's imprisonment is not explained by a shift in the character of women's crime comes from information about the offenses for which women are being imprisoned (see Table 3.3). For the past decade and a half, roughly a third of women's incarceration is due to violent crimes. Indeed, the proportion of women in state prisons for violent offenses has declined since 1979: from 48.95% to 32% in 2001 to 34% in 2006 (Bureau of Justice Statistics, 1988, 2002a, 2010a). In states that have seen large increases in women's imprisonment, such as California, the decline is even sharper. In 2009, only 16% of the women admitted to the California prison system were being incarcerated for violent crimes, compared to 37.2% in 1982 (Bloom, Chesney-Lind, & Owen, 1994; California Department of Corrections and Rehabilitation [CDC&R], 2010, p. 44).

Other recent figures suggest that without any fanfare, the "war on drugs" has become a war on women and has contributed to the explosion in women's prison populations. More than one out of four women in U.S. prisons in 2006 was doing time for drug offenses (up from 1 in 10 in 1979), whereas less than one out of five men were imprisoned for drug convictions (Bureau of Justice Statistics, 2002a, p. 13, 2010; Snell & Morton, 1994, p. 3). Although the intent of get-tough policies was to rid society of drug dealers and so-called kingpins, over a third (35.9%) of the women serving time for drug offenses in the nation's prisons are serving time solely for "possession" (Bureau of Justice Statistics, 1988, p. 3). In California, over half (52%) of the women admitted to prison for drug crimes were convicted for possession only (CDC&R, 2010, p. 45).

The war on drugs, coupled with the development of new technologies for determining drug use (e.g., urinalysis), plays another, less obvious role in increasing women's imprisonment. Many women parolees are being returned to prison for technical parole violations because they fail to pass random drug tests. Of the 7,117 women incarcerated in California in 2009, approximately one in five were imprisoned

Table 3.3 Estimated number of sentenced prisoners under state jurisdiction, by offense and sex year-end 2006

	All Inmates	Male	Female
Total	1,331,100	1,238,900	92,200
Violent Offenses	693,400	661,600	31,800
Murder	168,600	158,200	10,200
Manslaughter	16,100	14,200	1,600
Rape	65,800	65,300	500
Other sexual assault	93,600	92,500	1,300
Robbery	178,900	171,600	7,500
Assault	133,900	125,500	7,800
Other violent	37,100	34,400	2,800
Property Offenses	258,200	230,700	27,500
Burglary	126,100	119,800	6,000
Larceny	49,500	41,900	7,800
Motor vehicle theft	22,700	21,000	1,600
Fraud	33,600	23,700	9,800
Other property	26,400	24,400	2,200
Drug Offenses	264,300	238,600	26,200
Public Order Offenses	101,300	95,700	5,500
Other/Unspecified	13,300	12,300	1,200

Source: Bureau of Justice Statistics. (2010). *Prisoners in 2009* (p. 13). Washington, DC: U.S. Department of Justice.

for parole violations (CDC&R, 2010, p. 30). In Oregon, during a one-year period (October 1992–September 1993), only 16% of female admissions to Oregon institutions were incarcerated for new convictions; the rest were probation and parole violators. This pattern was not nearly so clear in male imprisonment; 48% of the admissions to male prisons were for new offenses (Anderson, 1994). Finally, in Hawaii, other data underscore this point further: of individuals released during 1998 and tracked for two years on parole, nearly half (43%) were returned to prison. When examining the reasons for parole revocation, a gender difference emerges: 73% of the women were returned to prison for technical violations (as opposed to new crimes); this was true for a smaller, yet significant, percentage (64%) of male parolees (Chesney-Lind, 2002, p. 90).

Nowhere has the drug war taken a larger toll than on women sentenced in federal courts. In the federal system, the passage of harsh mandatory minimums for federal crimes, coupled with sentencing guidelines intended to "reduce race, class and other unwarranted disparities in sentencing males" (Raeder, 1993) have operated to the distinct disadvantage of women. They have also dramatically increased the number of women sentenced to federal institutions. From 2000 to 2009, approximately 2,700 women a year have been sentenced to imprisonment in federal court for drug trafficking (U.S. Sentencing Commission, 2010). Drugs that have come under amplified surveillance by the federal government within the last decade, such as methamphetamine and marijuana, have also greatly impacted women.[1] From 1995 through 2009, the number of women convicted of federal methamphetamine offenses increased by nearly 200% (from 239 offenders in 1996 to 700 in 2009), and female federal marijuana offenders were up by 51% (from 495 in 1996 to 751 in 2000; see Figure 3.1). Indeed, women now account for one out of every five arrests for methamphetamine in the federal system (Motivans, 2008). The number of women convicted of powder cocaine offenses and the number of female crack cocaine offenders also remained at a steady high of over 500 offenders in each drug category. In state prisons, women are 47% more likely to be doing time for a drug offense than are men (Bureau of Justice Statistics, 2010c).

Figure 3.1 Number of Female Drug Offenders Sentenced in Federal Court by Drug Type, 2009

Powder cocaine	589
Crack Cocaine	508
Heroin	240
Marijuana	751
Methamphetamine	700
Other	219

Source: United States Sentencing Commission, 2009 datafiles.

[1]Raeder (1993) notes, for example, that judges are constrained by these federal guidelines from considering family responsibilities, particularly pregnancy and motherhood, which in the past may have kept women out of prison. Yet the effect of these "neutral" guidelines is to eliminate from consideration the unique situation of mothers, especially single mothers, unless their situation can be established to be "extraordinary." Nearly 90% of male inmates report that their wives are taking care of their children; by contrast, only 22% of mothers in prison could count on the fathers of their children to care for the children during the mother's imprisonment (p. 69). This means that many women in prison, the majority of whom are mothers, face the potential, if not actual, loss of their children. This is not a penalty that men in prison experience. Additionally, although the *United States v. Booker* (2005) decision allowed for more judicial discretion and for judges to depart from the guidelines more easily, application of federal sentencing guidelines continued at a steady pace. Pre-Booker courts sentenced roughly 70% of offenders within the guidelines. In post-Booker years, about 60% are still sentenced within the guidelines (see U.S. Sentencing Commission, *2005–2009 Datafiles*).

Additionally, drugs such as methamphetamine and crack cocaine come attached with mandatory minimum prison sentences for relatively small amounts of drug trafficking. The consequence is that more and more women no longer receive probation for low-level offenses but, rather, receive prison. Thirty years ago, nearly two thirds of the women convicted of federal felonies were granted probation, but by 1991 only 28% of women were given straight probation (Raeder, 1993, pp. 31–32). According to the U.S. Sentencing Commission (2010), by 2009, less than one in ten female felons convicted in federal court received straight probation. The mean time to be served by women drug offenders increased from 27 months in July 1984 to a startling 67 months in June 1990 (p. 34). Taken together, these data explain why the number of women in federal institutions has skyrocketed since the 1980s. In 2008, women made up 6.7% of those in federal institutions, with 11,988 women behind bars (Motivans, 2010).

What about property offenses? Roughly 30% (29.8) of the women in state prisons were doing time for these offenses in 2009 (Bureau of Justice Statistics, 2010c). California, again, merits a closer look: Over a third (34.6%) of women in California state prisons in 2009 were incarcerated for property offenses (CDC&R, 2010, p. 15). These generally included low-level burglary, fraud, and petty theft with a prior record. Taken together, this means that nearly one woman in three (30.5%) is incarcerated in California for simple drug possession, petty theft with a prior, fraud, or low-level burglary (CDC&R, 2010, p. 15).

GETTING TOUGH ON WOMEN'S CRIME

Data on the offenses for which women are in prison and an examination of trends in women's arrests suggest that factors other than a shift in the nature of women's crime are involved in the dramatic increase in women's imprisonment. Simply put, the criminal justice system now seems more willing to incarcerate women.

What has happened in the last two decades? Although explanations are necessarily speculative, some reasonable suggestions can be advanced. First, it appears that mandatory sentencing for specific kinds of offenses—especially drug offenses—at both state and federal levels have affected women's incarceration. Legislators at the state and national level, perhaps responding to a huge increase in media coverage of crime but not necessarily the nation's actual crime rate, are escalating penalties for all offenses, particularly those associated with drugs (Mauer, 2006; Mauer & Huling, 1995).

Beyond this, sentencing reform, especially the development of sentencing guidelines and mandatory minimums resulting from "Three Strikes and You're Out" and "Truth in Sentencing" legislation, also has been a problem for women. In California, this has resulted in increasing the number of prison sentences for women who, due to such truth in sentencing policies, will be required to do at least 85% of their sentence behind bars (Blumstein, Cohen, Martin, & Tonry, 1983; CDC&R, 2010; Mauer, 2006). Sentencing reform has created some problems because the reforms address issues that have developed in the handling of

male offenders and are now being applied to female offenders. Daly and Bordt's (1991) review of this problem notes, for example, that federal sentencing guidelines ordinarily do not permit a defendant's employment or family ties/familial responsibilities to be used as a factor in sentencing. She notes that these guidelines probably were intended to reduce class and race disparities in sentencing but their effect on women's sentencing was not considered. Bush-Baskette's (1999) analysis of the war on drugs resonates a similar theme: "Sentencing guidelines that disallow the use of drug addiction and family responsibilities as mitigating circumstances subject Black females to prison and long sentences under criminal justice supervision, as they do White females" (p. 222).

Finally, the criminal justice system has simply become tougher at every level of decision making. Langan (1991) notes that the chance of receiving a prison sentence following arrest has risen for all types of offenses, not simply those typically targeted by mandatory sentencing programs (p. 1569). This is specifically relevant to women because mandatory sentencing laws (with the exception of those regarding prostitution and drug offenses) typically have targeted predominantly male offenses, such as sexual assault, murder, and weapons offenses. Thus, Langan's research confirms that the whole system is now tougher on all offenses, including those that women traditionally have committed.

A careful review of the evidence on the current surge in women's incarceration suggests that this explosion may have little to do with a major change in women's behavior. This surge stands in stark contrast to the earlier growth in women's imprisonment, particularly to the other great growth of women's incarceration at the turn of the 20th century.

Perhaps the best way to place the current wave of women's imprisonment in perspective is to recall earlier approaches to women's incarceration. Historically, women prisoners have been few in number and were apparently an afterthought in a system devoted to the imprisonment of men. In fact, early women's facilities were often an outgrowth of men's prisons. In those early days, women inmates were seen as "more depraved" than their male counterparts because they were viewed as acting in contradiction to their whole "moral organization" (Rafter, 1990, p. 13).

The first large-scale, organized imprisonment of women occurred in the United States when many women's reformatories were established between 1870 and 1900. Women's imprisonment was justified not because the women posed a public safety risk, but because women were thought to need moral revision and protection. Important to note, however, is that the reformatory movement that resulted in the incarceration of large numbers of white, working-class girls and women for largely noncriminal or deportment offenses did not extend to women of color. Instead, as Rafter (1990) has carefully documented, African American women, particularly in the southern states, continued to be incarcerated in prisons where they were treated much like the male inmates. They frequently ended up on chain gangs and were not shielded from beatings if they did not keep up with the work (pp. 150–151). This racist legacy, the exclusion of Black women from the "chivalry" accorded White women, should be kept in mind when the current explosion of women's prison populations is considered.

The current trend in adult women's imprisonment seems to revisit the earliest approach to female offenders—women are once again an afterthought in a correctional process that is punitive rather than corrective. Women are also, however, no longer being accorded the benefits, however dubious, of the chivalry that had characterized the reformatory movement. Rather, they are increasingly likely to be incarcerated, not because society has decided to crack down on women's crime specifically, but because women are being swept up in a societal move to get tough on crime that is driven by images of violent criminals (almost always male and often members of minority groups) "getting away with murder."

A look at capital punishment demonstrates this point further. Although historically, women have received the death penalty far less frequently than men, the advent of get-tough approaches to crime ushered in a dramatic increase in the number of death sentences imposed on women (Morgan, 2000, p. 280; Streib, 2011; see Table 3.4). A total of 167 death sentences have been imposed upon female offenders from 1973 through late-2010 (Streib, 2011, p. 9). Five states (Texas, California, Florida, North Carolina, and Ohio) account for essentially half (83 of 167) of all such sentences, while the annual death-sentencing rate for female offenders during the last decade has averaged four per year (Streib, pp. 3–6). As of 2010, 55 women remained on death row in the United States, with the remaining 112 either executed, dead from natural causes, or received commuted life sentences. Despite the fact that domestic homicide is not a capital offense in most jurisdictions that utilize the death penalty, one quarter (14 of 55) of these fifty-five women received the death penalty for killing their husbands or boyfriends. Another one fifth killed their children or a child in their care (Streib, p. 10).

From 1990 to 2010, the total number of women executed exceeded the combined total of the previous four decades, despite declines in murder arrests for women. From 1984 to 2010, twelve women were executed in the United States (Streib, 2011). Table 3.4 summarizes the race, location, and victim of these 12 women.

This public mood, coupled with a legal system that now espouses equality for women with a vengeance when it comes to the punishment of crime, has resulted in this punitive attitude surrounding the death penalty and women and, in general, much greater use of imprisonment in response to women's crime. There also seems to be a return to the imagery of women's depravity for those women whose crimes (and race) put them outside of the ranks of *true women*. As evidence, consider the new hostility signaled by bringing child abuse charges against women who use drugs before the birth of their children (Chavkin, 1990; National Advocates for Pregnant Women [NAPW], 2011; Noble, 1988).

The fact that many of the women incarcerated in U.S. prisons are women of color who are doing time for drug offenses further distances them from images of womanhood that require protection from prison life. For this reason, when policymakers are confronted with the unanticipated consequences of the new get tough mood, their response is all too frequently to assail the character of the women they are jailing rather than to question the practice itself.

Table 3.4 Women Executed in the United States, 1984–2010

Year	Inmate	Race	State	Victim
11/02/1984	VELMA BARFIELD	White	NC	Boyfriend, by poison (also admitted to killing four others, including her mother and husband)
02/03/1998	KARLA FAYE TUCKER	White	TX	Acquaintance, by pickax
03/30/1998	JUDY BUENOANO	White	FL	Husband, by poison
02/24/2000	BETTY LOU BEETS	White	TX	Husband, by gunshot
05/02/2000	CHRISTINA RIGGS	White	AR	Two children, by poison (intended suicide but was revived)
01/11/2001	WANDA JEAN ALLEN	Black	OK	Girlfriend, by gunshot
05/01/01	MARILYN PLANTZ	White	OK	Husband, beaten and burned (hired boyfriend, who also received death)
12/04/01	LOIS NADEAN SMITH	White	OK	Son's ex-girlfriend, by gunshot
05/10/02	LYNDA LYON BLOCK	White	AL	Police officer, by gunshot (committed crime with husband, also executed)
10/09/02	AILEEN WUORNOS	White	FL	Stranger by gunshot (a *john*; 7 victims total)
09/15/05	FRANCES NEWTON	Black	TX	Husband, son, daughter by gunshot
09/23/10	TERESA LEWIS	White	VA	Husband, stepson by gunshot (hired boyfriend and accomplice)

Source: Streib (2010). Death Penalty for Female Offenders, January 1, 1973 to October 31, 2010.

BUILDING MORE WOMEN'S PRISONS

As a result of the surge in women's imprisonment, our country has gone on a building binge with regard to women's prisons. Prison historian Nicole Hahn Rafter (1990) observes that between 1930 and 1950, roughly two or three prisons were built or created for women each decade. In the 1960s, the pace of prison construction picked up slightly, with seven units opening, largely in southern and western states. During the 1970s, 17 prisons opened, including units in states such as Rhode Island and Vermont, which once relied on transferring women prisoners out of state. In the 1980s, 34 women's units or prisons were established; this figure is 10 times larger than the figures for earlier decades (Rafter, pp. 181–182).

To put this dramatic shift in another important historical context, consider the fact that only 30 years ago, the majority of states did not operate separate women's prisons. In 1973, only 26 states, Puerto Rico, and the District of Columbia, had separate institutions for women. Other states handled the problem differently; women were either housed in a portion of a male facility or, like Hawaii, Rhode Island, or Vermont, were imprisoned in other states (Singer, 1973). Looking backward, this pattern was very significant. The official response to women's crime during the 1970s was heavily influenced by the relative absence of women's prisons, despite the fact that some women were, during these years, committing serious crimes.

What has happened in the past few decades, then, signals a major and dramatic change in the way the country is responding to women's offenses. Without much fanfare and with little public discussion, the model of men's incarceration has been increasingly applied to women. Some of this punitive response to women's crime can be described as *equality with a vengeance*—the dark side of the equity or parity model of justice that emphasizes the need to treat women offenders as though they were equal to male offenders. As one correctional officer said at a national meeting, "An inmate is an inmate is an inmate."

But who are these inmates, and does it make sense to treat women in prison as though they were men? The next section examines what is known about the backgrounds of women currently doing time in state and federal prisons across the country.

PROFILE OF WOMEN IN U.S. PRISONS

Childhoods of Women in Prison

The most recent research on the characteristics of women doing time in state prisons across the country underscores the salience of themes identified early in this book—particularly the role of sexual and physical violence in the lives of women who come into the criminal justice system. This research also argues forcefully for a national discussion of the situation of women in our jails and prisons.

Snell and Morton (1994) surveyed a random sample of women and men (n=13,986) in prisons around the country during 1991 for the Bureau of Justice Statistics. For the first time, a government study asked questions about women's and men's experiences of sexual and physical violence as children. They found, when they asked these questions, that women in prisons have experienced far higher rates of physical and sexual abuse than men. Forty-three percent of the women surveyed "reported they had been abused at least once" before their current admission to prison; the comparable figure for men was 12.2% (Snell & Morton, 1994, p. 5). A look at women in jail and prison in 1998 shows even higher estimates: 48% of women in jail and 57% in state prisons report prior histories of sexual or physical abuse (see Table 3.5).

For about a third of all women in prison (31.7%), the abuse started when they were girls and continued as they became adults. A key gender difference emerges

Table 3.5 Characteristics of Adult Women on Probation, in Jail, and in Prison

Probation	Jails	State Prisons	Race/Ethnicity
White	62%	36%	33%
Black	27	44	48
Hispanic	10	15	15
Other	1	5	4
Age			
24 and younger	20	21	
25–34	39	46	
35–44	30	27	
45–54	10	5	
55 and older	1	1	2
Median age	32 years	31 years	33 years
Marital Status			
Married	26	15	17
Widowed	2	4	6
Separated	10	13	10
Divorced	20	20	20
Never married	42	48	47
Education			
8th grade or less	5	12	7
Some high school	35	33	37
High school	39	39	39
Graduate/GED			
Some college or more	21	16	17
Report ever physically or sexually abused	41	48	57

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Source: Bureau of Justice Statistics. (1999). *Women Offenders* (pp. 7–8). Washington, DC: U.S. Department of Justice.

here. A number of young men who are in prison (10.7%) also report abuse as boys, but it did not continue into adulthood. One in four women reported that their abuse started as adults, compared to only 3% of male offenders. Fully 33.5% of the women surveyed reported physical abuse, and a slightly higher number (33.9%) had been sexually abused either as girls or young women, compared to relatively small percentages of men (10% of boys and 5.3% of adult men in prison).

This survey also asked women about their relationships with those who abused them. Predictably, both women and men reported that parents and relatives contributed

to the abuse they suffered as children, but female prisoners were far more likely than their male counterparts to say that domestic violence was a theme in their adult abuse; fully half of the women said they had been abused by a spouse or ex-spouse, compared to only 3% of male inmates.

The survey found ethnic differences in the role played by the juvenile and criminal justice system in the lives of women in prison. Overall, White women were slightly more likely to report having been in the foster care system or other institutions (21.1%) than African American or Hispanic women (14.1% and 14.4%, respectively). African American women and Hispanic women, by contrast, were far more likely than White women to report a family member (usually a brother) in prison (Snell & Morton, 1994).

Contrary to some stereotypes about drug use, more White and Hispanic women than African American women reported parental involvement with alcohol and drug abuse when they were girls. Over 4 out of 10 White women, and about a third of the Hispanic women, reported parental drug abuse, compared to only a quarter of the African American women. This underscores the need to focus on the specific interaction among culture, gender, and class in women's pathways to prison.

Current Offenses

A look at the offenses for which women are incarcerated quickly puts to rest the notion of hyperviolent, nontraditional women criminals. "Nearly half of all women in prison are currently serving a sentence for a nonviolent offense and have been convicted in the past of only nonviolent offenses" (Snell & Morton, 1994, p. 1). In fact, the number of women in prison for violent offenses, as a proportion of all female offenders, has fallen steadily over the past decades, whereas the number of women in prison has soared. In 1979, about half of the women in state prisons were incarcerated for violent crimes (Bureau of Justice Statistics, 1988). By 1986, the number had fallen to 40.7%, and in 2001 it was at 32.2% (Bureau of Justice Statistics, 2002a; Snell & Morton, p. 3). In 2009, one out of three women in U.S. prisons was there for a violent crime, compared to about 40% of male prisoners (Bureau of Justice Statistics, 2010a).

Snell and Morton (1994) also probed the gendered nature of the women's violence that resulted in their imprisonment. They noted that women prisoners were far more likely to kill an intimate or relative (50%, compared to 16.3%), whereas men were more likely to kill strangers (50.5%, compared to 35.1%). The last (1999) Bureau of Justice Statistics study that focused on women offenders showed similar findings. In 1998, over 93% of female homicide offenders killed an intimate, family member, or acquaintance. For men, only 76% killed someone they knew (see Table 3.6). Given the information already discussed in this book regarding the nature of women's violence and its relationship to their own histories and experiences of abuse, women's violent acts take on quite a different significance than men's violence.

Table 3.6 Relationship of Offender to Victim for Murder Offenses, 1998

Victim	Female	Male
Spouse	28.3%	6.8%
Ex-spouse	1.5	0.5
Child/stepchild	10.4	2.2
Other family member	6.7	6.9
Boyfriend/girlfriend	14.0	3.9
Acquaintance	31.9	54.6
Stranger	7.2	25.1
Number, 1976–1997	59,996	395,446

Source: Bureau of Justice Statistics. (1999). *Women Offenders* (p. 4). Washington, DC: U.S.Department of Justice.

Drugs and their role in women's violence are also apparent in these data; generally speaking, women doing time for crimes of violence were less likely to report a link between drugs and violence than women serving time for property or drug offenses. For example, only 11% of the women convicted of violent crimes used drugs at the time of their crime, compared to 25% of those serving time for property offenses, and 32% of those serving time for drug offenses (Bureau of Justice Statistics, 1999, p. 9). In Snell and Morton's (1994) study, the one exception to this generalization was found for women incarcerated for robbery. Not only did these women report that they were under the influence of the drug at the time of the robbery, but they were virtually the only women serving time for a violent offense who reported that they committed the offense "to get money for drugs" (p. 8). Women serving time for homicide were also slightly more likely to report greater use of drugs the month before the offense for which they were imprisoned and to report being under the influence of drugs at the time of the offense, but they rarely said that getting money to buy drugs was a motive for the crime.

Property Crimes

Many women in state prisons are serving time for larceny theft. Indeed, of the women serving time for property offenses (25.1% of all women in prison), about a third (30.2%) are doing time for larceny theft. This compares to only 18.2% of men who are doing time for property crimes. Fraud is another important commitment offense for women, accounting for 35% of women's but only 10.3% of men's, most serious property offenses. Men serving time for property offenses are more likely to be serving time for burglary (49.2%) (Bureau of Justice Statistics, 2010a).

Drug Use Among Women in Prison

Given the past history of the women in prison, it should come as no surprise that drug use, possession, and, increasingly, drug trafficking are themes in women's imprisonment. In 1979, only 10.5% of women in state prisons were serving time for drug offenses; by 1986, the proportion had increased to 12%; in 2006, 28.4% of all women in state prisons were doing time for drug offenses (Bureau of Justice Statistics, 1988, p. 3, 2010, p. 29; Snell & Morton, 1994, p. 3). Currently, over half of the women serving time for drug offenses are now serving time for drug trafficking. Although this offense sounds very serious, it must be placed in context. As we shall see later in this chapter, in a world where big drug deals are controlled almost exclusively by men (Green, 1996), women, many of whom are from desperately poor countries or from our own impoverished communities, are being cast or coerced into the role of serving as drug mules or couriers, only to be swept up in the escalating penalties that have characterized the past decade's war on drugs (Mauer & Huling, 1995).

National data on women in prison confirm that women prisoners have more problems with drugs than their male counterparts. Snell and Morton (1994) found that, contrary to the stereotype of the male drug addict committing crimes, "women in prison in 1991 used more drugs and used those drugs more frequently than men" (p. 7). For example, more female prisoners used drugs daily before imprisonment than male prisoners (41.5%, compared to 35.7%), and women were more likely than men to be under the influence of drugs when they committed the offense for which they were imprisoned (36.3%, compared to 30.6%). Finally, about a quarter of women in prison, but only a fifth of men, committed the offense for which they were imprisoned to buy drugs. Ominously, about a quarter of all women in prison had some form of drug treatment prior to imprisonment, and of those using drugs, 41.8% had treatment the month before their offense. These figures suggest that most interventions are not sufficient to help these women with their drug problems.

Cobbina's research (2009, 2010) also illustrates the strong role of drugs in women offenders' lives, criminal pathways, and their chances for successful reentry. In her interviews with 50 incarcerated or paroled women, 88 % of incarcerated and 79% of paroled women reported using drugs in their lifetimes (p. 38). "Of the women who used drugs, 74 percent of incarcerated women and 79 percent of paroled women had at least one member of their family who was drug addicted, indicating that women are more likely to use narcotic substances when members of their own family abuse drugs" (p. 38). A number of incarcerated (23%) and paroled (25%) women in the study stated that their initiation into the drug world began as a result of their exposure to illicit substances by their family during childhood or adolescence. Most stated that their desire for approval and acceptance by their peers and male intimate partner also influenced their decision. Finally, some stated they used drugs as a way to cope with negative life events (p. 37–38).

Women prisoners are also taking health risks by using drugs. Snell and Morton (1994) found that women prisoners were more likely than men to use needles to inject drugs (34%, compared to 24.3%) and to have shared needles with friends

(18%, compared to 11.5%). Again, contrary to many stereotypes, these rates were highest among White and Hispanic women, compared to African American women. For example, 41.6% of White women and 45.9% of Hispanic women had ever used a needle, compared to only 24% of African American women.

Perhaps as a result of these patterns, at the turn of the 21st century more women than men in prison were infected with HIV; in that year, 3.6% of all women in state prisons had the virus that causes AIDS, compared to 2.2% of male inmates. In New York, the state with the most HIV-positive female prisoners (600), the percentage of women inmates testing positive (18.2% of the female prison population) far outreached the percentage of male inmates testing positive for the virus (8%) (Maruschak, 2002). Although the number of inmates with HIV is decreasing overall, the rate is faster for men. Between 1999 and 2000, 7% fewer men in prison were known to be HIV positive; for women, the decrease was 2% (Maruschak, 2001, 2002).

Mothers Behind Bars

Nearly two thirds of women in prison have a child under the age of 18 (Glaze & Muraschak, 2008). Over the past two decades, the number of children who have a mother behind bars has increased 131% (Glaze & Muraschak, 2008). Many of these women will never see their children if this and other national studies (see Bloom & Steinhart, 1993) are accurate. Women in prison are five times more likely than men to have their children removed from immediate family members and placed into foster care or some other agency (Mumola, 2000).

Even those women who retain custody of their children are unlikely to see them. Snell and Morton (1994) found that 52.2% of the women with children under 18 had never been visited by their children. Most of the women who were able to be visited by their children saw them "less than once a month" or "once a month." More women were able to send mail to or phone their children, but even here, one in five never sent or received mail from their children, and one in four never talked on the phone with their children. This is despite the fact that many of these women, prior to their incarceration, were taking care of their children (unlike their male counterparts). More than 64% of mothers behind bars lived with their children prior to incarceration (Glaze & Muraschak, 2008). Moreover, because women's work is never done, it is more often the imprisoned woman's mother (the child's grandmother) who takes care of her children, whereas male inmates are more likely (89.7%) to be able to count on the children's mother to care of the child (Snell & Morton, p. 6).

These patterns are particularly pronounced among African American and Hispanic women. Black children are almost nine times more likely than White children to have a parent in prison and Hispanic children are three times more likely (Mumola, 2000; Sentencing Project, 2007). By age 14, among children born in 1990, the cumulative risk of parental imprisonment is 25.1–28.4% for African American children, while only 3.6–4.2% for White children (Foster & Hagan, 2009). Additionally, White female inmates more often report access to husbands as primary caretakers of their children, whereas African American women do not

identify this as an option (Enos, 2001, p. 55). Although Black women and Hispanic women are more likely to share caretaking responsibilities with other family members and are less likely to rely upon foster care services, the ability of the family to effectively respond, both financially and emotionally, to the incarceration of a female family member with children is dependent upon social and economic status (Enos, 2001). This becomes highly problematic for women of color, because poverty and race are intertwined and families often have few resources to extend (Christian & Thomas, 2009).

Additionally, women of color are more likely to experience adverse parenting situations even before incarceration, as African American and Hispanic women more often live in communities that have intense exposure to dual modes of state intervention—the criminal justice system and child welfare services (Roberts, 2002). In Brown and Bloom's 2009 research on mothers on parole, nearly 24% (n = 48) of the women in this study had been involved with the state's Department of Human Services (DHS), Child Welfare Services Division for child maltreatment (p. 317). In addition, the state (or some other jurisdiction) had terminated the parental rights of 17% (n = 34) of the mothers in this study for one or more children. In the next chapter, a more in-depth discussion of mothering behind bars is developed.

RACE AND WOMEN'S IMPRISONMENT

Race as well as gender figures prominently in women's imprisonment. The numbers indicate that nearly half the women in the nation's prisons are women of color, notably 30% are African American and 16% are Hispanic (Sentencing Project, 2007). Moreover, the incarceration rate for African American women is nearly twice that of Hispanic women and 2.5 times that of White women: In 2009, one in 703 Black females was imprisoned, compared to about 1 in 1,987 White females and 1 in 1,356 Hispanic females (Bureau of Justice Statistics, 2010c).

Hidden in these data is the fact that the surge in women's imprisonment has disproportionately hit women of color in the United States. Further analysis of these survey data and other national data (Bureau of Justice Statistics, 2010c; Mauer, 2006; Mauer & Huling, 1995) has thoroughly documented the way in which the surge in women's imprisonment has been driven almost completely by a dramatic increase in the imprisonment of women of color. Although White women comprise 62% of women on probation, it is African American women who are most represented in jails and prisons.

Between 1986 and 1991, all women saw an increase in what Mauer and Huling (1995) call the "control rate" (the proportion of women under some form of correctional supervision—probation, jail, prison, or parole), but this rate jumped most dramatically for African American women. Although much of the nation's attention has been correctly focused on the horrific overcontrol of African American males whose control rate now approaches one out of every three young males between the ages of 20 and 29 (Mauer & Huling, 1995, p. 3), their sisters are also seeing increases in contact with the criminal justice system.

The control rate for African American women was 2.7% of all young women in 1989; by 1994, the rate had jumped 78% to 4.8% or 1 out of 20 young African American women) (Mauer & Huling, 1995, p. 5). The distance between the White and African American rates also widened so that well over three times as many young Black women have contact with the criminal justice system than do their White counterparts. Hispanic women have also seen their control rate increase by 18%, and their control rate is about double the rate for White women (2.2%).

Mauer and Huling (1995) present compelling evidence to support their contention that much of this increase can be laid at the door of the war on drugs, which many now believe has become a war on women, particularly on women of color. They also present a striking analysis of how the crackdown on drug use and trafficking has affected Black and Hispanic women. Specifically, although the number of women in state prisons for drug sales has increased by 433% between 1986 and 1991, this increase is far steeper for Hispanic women (328%) and for African American women (828%) than for White women (241%) (p. 20).

Huling (1995), in a subsequent paper, directly links these increases in women's incarceration to the fact that the war on drugs has been particularly harsh on those using and selling crack cocaine. This has a significant effect on African American women because "there are indications that women are more likely to use crack and are more likely to be involved in crack distribution sales relative to other drugs" (p. 8). Thus, she contends that, without much public fanfare, the war on drugs, and particularly the harsh penalties for the sale of crack cocaine (relative to powder cocaine and other drugs), has had a dramatic effect on the incarceration patterns of African American women. With the major focus of the drug war on low-level street users of crack cocaine, Black women, constructed by the media as *crack whores* and drug-addicted mothers, became "responsible" for crack's devastation in inner-city neighborhoods (see also Bush-Baskette, 1999, for similar argument). Consequently, Black women entered the criminal justice system at exacerbated rates.

Recall the research by English (1993) on women's and men's self-reported drug selling, wherein she found that female prisoners were much more likely than their male counterparts to report numerous small drug sales. This could mean that the patterns of women's drug selling, rather than the seriousness of their sales, expose them to more risk of arrest and incarceration.

The other hidden victims of the war on drugs are the women, many from foreign countries, who are serving time in U.S. prisons for being drug couriers. Huling (1996) notes that the lack of repatriation treaties between most "drug-demand countries" and "drug-supply countries" has meant that many drug couriers end up serving long prison terms in the country of their arrest. Initially, women from foreign countries entering the United States at airports, such as John F. Kennedy (JFK) in New York, were tried in federal court. As the federal prisons began to experience sharp increases in women's imprisonment, federal officials shifted the cases to state courts (Huling, 1996; see also English, 1993).

Reviewing the cases of women who were arrested at JFK airport during 1990 and 1991 for drug smuggling (n=59), Huling (1996) found the following: Almost all (96%) had no history of involvement with the criminal justice system. Most

(95%) had not been convicted at trial but had instead plead guilty to a reduced charge. To avoid the New York laws that would have sentenced them to life terms, they plead guilty to a reduced charge that requires a "mandatory minimum" of 3 years to life in prison. Almost all of the women arrested were Hispanic (Huling, p. 53). Prosecutors, when asked about these patterns, argued that they had "no choice" but to pursue indictments for anyone found in possession of four ounces or more of an illegal drug.

Interviewing some of these women, Huling (1996) was able to document that many carried the drugs because of threats to their families, because they were trapped in abusive relationships with men involved in the drug trade, or because they had been duped or fooled. Despite this reality, Huling shows that New York politicians (including elected prosecutors) used the number of convictions of drug smugglers to document their "get tough on crime" stances, and despite a public outcry generated in part by Huling's work and the work of Sister Marion of Rikers Island, efforts to reform New York's harsh mandatory sentences failed.

DIFFERENT VERSUS EQUAL?

Given situations like those experienced by women charged with being drug smugglers, it should come as no surprise that the continuing debate over whether equality under the law is a good thing for women has special immediacy for those looking at the situation of women in the criminal justice system. To recap this debate (see Chesney-Lind & Pollock-Byrne, 1995, for a full discussion), some feminist legal scholars argue that the only way to eliminate the discriminatory treatment and oppression that women have experienced in the past is to push for continued equalization under the law; that is, to champion equal rights amendments and to oppose any legislation that treats men and women differently. They argue that although this may hurt in the short run, in the long run it is the only way that women will ever be treated as equal playing partners in economic and social spheres. For example, MacKinnon (1987) writes, "For women to affirm difference, when difference means dominance, as it does with gender, means to affirm the qualities and characteristics of powerlessness" (pp. 38–39). Even those who do not view the experience of women as one of oppression conclude that women will be victimized by laws created from "concern and affection" that are designed to protect them (Kirp, Yudof, & Franks, 1986).

The opposing argument is that women are not the same as men and because it is a male standard that equality is measured against, they will always lose. Therefore, one must consider differential needs (a sort of separate but equal argument). This would mean that women and men might receive differential treatment as long as it did not put women in a more negative position than the absence of such legislation. Conversely, the equalization proponents feel that, given legal and social realities, differential treatment for women will always be unequal treatment and by accepting different definitions and treatments, women run the risk of perpetuating the stereotype of women as different from and less than men.

One might reasonably ask how this legal debate, which has to date largely focused on the rights of women as workers, bears on women as prisoners. In fact, as the next section will demonstrate, the experience of women prisoners starkly illuminates some of the shortcomings of the conventional extremes of the different versus equal debate, because at different points in our nation's history, those who have imprisoned women have used each perspective to deal with the women they confined. This review of the history and current issues surrounding women's imprisonment will also highlight severe problems with the gender-blind approach to jailing women.

PRISONS AND PARITY

Initially, the differential needs approach was the dominant correctional policy. Almost from the outset, the correctional response to women offenders was to embrace the Victorian notion of "separate spheres" and to construct and manage women's facilities based around what were seen as immutable differences between men and women (Rafter, 1990). Women were housed in separate facilities and programs for women prisoners represented their perceived role in society. Thus, they were taught to be good mothers and housekeepers; vocational education was slighted in favor of domestic training. Women were hired to supervise female offenders in the belief that only they could provide for the special needs of female offenders and serve as role models for them. To some degree, this legacy still permeates women's prisons today. Typically, these prisons have sex-typed vocational programming and architectural differences (such as smaller living units and decentralized kitchens) in recognition of gender roles.

In sentencing, too, one could observe that the system treated women and men differently. Women were much less likely than men to be imprisoned unless the female offender did not fit the stereotypical female role, for example, if she was a "bad mother" who abused or abandoned her children, or if she did not have a family to care for (Chesney-Lind, 1987; Eaton, 1986). This resulted in one of the most dramatic disproportional ratios in criminal justice—women composed roughly only 4% of the total prison population for years. Of course, part of this was because most women committed far fewer serious crimes than men, but at least some part of the difference was due to sentencing practices (see Blumstein et al., 1983).

Certainly, the differential treatment of women in sentencing and prison programming is a thing of the past. Partially as a result of prisoner rights' litigation based on the parity model (see Pollock-Byrne, 1990), women offenders are being swept into a system that seems bent on treating women *equally*. Currently, the emphasis on women's prison construction and the architecture of women's prisons suggest that women get the worst of both worlds, correctionally. A couple of well-publicized scandals can serve to highlight the severe problems with a gender-blind approach to women's imprisonment.

In Alabama, the state reinstated male chain gangs with much fanfare in 1995, after they had been dropped in 1932 because of accounts of brutality and abuse.

The current practice involves men shackled in groups of five working along public highways, although some groups are assigned the job of breaking "large rocks into little ones" (Franklin, 1996, p. 8A). The country's current-get-tough-on-crime mood provided Alabama officials with the opening to reinstate these workgroups and even to involve some groups in grueling "busy work."

Alabama corrections officials were threatened with a lawsuit brought by male inmates suggesting that the practice of excluding women from the chain gangs was unconstitutional. The response from the Alabama Corrections Commissioner was to include women in the chain gangs (Franklin, 1996, p.3A). Ultimately, the governor forced the corrections chief to resign; the governor's spokesperson said simply, "It was just a philosophical difference. In his [the governor's] opinion, there is a difference in men and women (specifically) physically" (Hulen, 1996, p. A1

Although the issue of chain gangs for women is moot in Alabama, it has surfaced in other states. Proclaiming himself "an equal opportunity incarcerator," an Arizona sheriff has started one for women "now locked up with three or four others in dank, cramped disciplinary cells" (Kim, 1996, p. 1A). To escape these conditions, the women can *volunteer* for the 15-woman chain gang. Defending his controversial move, the sheriff commented, "If women can fight for their country, and bless them for that, if they can walk a beat, if they can protect the people and arrest violators of the law, then they should have no problem with picking up trash in 120 degrees" (p. 1A).

Other routine institutional practices, such as strip searches (sometimes involving body cavity searches), have also produced problems. In New York prisons, in response to complaints by male inmates that strip searches were often accompanied by beatings, video monitors (usually mounted on the wall) were installed in areas where searches occurred. When the women's prison, Albion Correctional Center, began to tape women's strip searches, though, fixed cameras were replaced by hand-held cameras (Craig, 1996, p. 1A). Fifteen women prisoners incarcerated at Albion filed complaints based on their experiences with strip searches. Specifically, they said that doors to the search area were occasionally kept open, that male guards were sometimes seen outside the doors watching the searches, and that, unlike the men's videos, which surveyed the whole room where the searches occurred, according to the women's lawyer, "these videotapes were solely focused on the woman. That amplified the pornographic effect of it" (Craig, 1996, p. 1A). Said one woman who was searched while men were "right outside a door and could see the whole incident, 'I knew they was watching . . . I was so humiliated . . . I felt like I was on display. I felt like a piece of meat'" (p. A6). Advocates for the women stressed the traumatic effect of such searches, given the histories of sexual abuse and assault that many women bring with them to prison.

Moreover, the women inmates suspected that prison officials were viewing the tapes and eventually filed complaints to stop routine videotaping of women prisoners. In addition to receiving over $60,000 in damages, the women were able to change the policy of routine videotaping of women's searches. As a result of their complaints, "a female inmate would be filmed only if officers believed she would resist the search" (Craig, 1996, p. A6). Presently, very few searches of women inmates are being videotaped in New York, but the possibility of abuse is present in almost all prisons.

Even without videotaping and other possible abuses, strip searches have quite different meanings for women and men. For example, a key point made by the Albion women was that, given the high levels of previous sexual abuse among women inmates, such searches had the possibility of being extremely traumatic. In fact, similar concerns have also surfaced in a Task Force Report to the Massachusetts Department of Health about the use of "restraint and seclusion" among psychiatric patients who have histories of sexual abuse (Carmen et al., 1996).

Finally, the most pervasive complaint that has accompanied women's imprisonment is the sexual abuse and harassment of women inmates by male guards. Owen's (1998) book, *In the Mix: Struggle and Survival in a Women's Prison*, includes the degrading experiences women encounter with male guards. Although the women in her study offered limited discussion about forced or consensual sexual relationships with staff, one woman illustrated the potential for harassment in day-to-day activities:

> If you are short, the officers, you can be seen from the (officer's) bubble. It is degrading. Sometimes you get a shower peeker. I told the other girls to block the shower. Then the officer got an attitude. You could tell. (p. 166)

As old as women's imprisonment (Beddoe, 1979), the sexual victimization of women in U.S. prisons is the subject of increasing news coverage and, more recently, international scrutiny. Scandals have erupted in California, Georgia, Hawaii, Ohio, Louisiana, Michigan, Tennessee, New York, and New Mexico (respectively, Stein, 1996; Meyer, 1992; Watson, 1992; Curriden, 1993; Sewenely, 1993; Craig, 1996; and Lopez, 1993), and the assumption has grown that prisons, here in the United States and elsewhere, are rife with this problem. So extensive is the concern that the issue has attracted the attention of Human Rights Watch (1993).

Details of these scandals yield the predictable charges and countercharges, but the storyline remains essentially unchanged; women in prisons, guarded by large numbers of men, are vulnerable. As one advocate for women in prison has noted, "We put [women] into an environment where they're controlled by men and men are willing to put their hands on them whenever they want to" (Craig, 1996, p. A1). The story that prompted this observation dealt with one of a series of sexual assaults reported by a young woman in a New York prison:

> Correctional officer Selbourne Reid, 27, came into the cell of a 21-year-old inmate at the maximum security prison in Westchester County. The inmate, at first asleep, was startled to find him in her cell. . . . On this night, Reid forced the woman to perform oral sex on him, according to the Westchester County district attorney's office. After he left, she spit the semen into a small bottle in her room. She told prison authorities about the attack, and gave them the semen for DNA analysis. (Craig, 1996, pp. 1A, 6A)

Similar accounts appear with distressing regularity, and even more disturbing is the fact that so few of the cases, unlike the one reported here, actually go to trial or result in the perpetrators being found guilty. Institutional subcultures in women's

prisons that encourage correctional workers to cover for each other, coupled with inadequate protection accorded women who file complaints, make it unlikely that many women inmates will show the courage of the young woman in New York. Indeed, according to a memo filed by an attorney in the Civil Rights Division of the U.S. Department of Justice, the division found "a pattern of sexual abuse by both male and female guards" in Michigan women's prisons (Patrick, 1995).

Stein (1996 writes that a judge reviewing the situation of women in Washington D.C. jails noted that "the evidence revealed a level of sexual harassment which is so malicious that it violates contemporary standards of decency" (p. 24). If this is true, why do so few of these cases make it to court? Sadly, some of this involves the histories of women in prison, many of whom have engaged in prostitution, which allow the defendants to use the misogynist defense that it is impossible to rape a prostitute. Beyond this, the public stereotype of women in prison as *bad girls* means that any victim must first battle this perception before her case can be fairly heard. Finally, what little progress has been made is severely threatened by recent legislation that has drastically curtailed the ability of prisoners and advocates to sue over prison conditions (p. 24)—changes again likely to have been motivated by public perceptions of prisoners as violent men.

That women in prison are the recipients of "equity with a vengeance" does not necessarily mean that the abuses that used to exist in prisons that assumed gender difference have retreated completely. In fact, it appears that today's women in prison still receive some of the worst of the old separate spheres abuses, particularly in the area of social control. For example, McClellan (1994) examined disciplinary practices at men's and women's prisons in Texas. Using Texas Department of Corrections records, McClellan constructed two samples of inmates (271 men and 245 women) and followed them for a one-year period (1989). She documented that although most men in her sample (63.5%) had no citation or only one citation for a rule violation, only 17.1% of the women in her sample had such clear records. Women prisoners were much more likely to receive numerous citations and received them for different sorts of offenses than men. Most commonly, women were cited for "violating posted rules," whereas men were cited most frequently for "refusing to work" (p. 77). Finally, women were more likely than men to receive the most severe sanctions, including solitary confinement (p. 82).

McClellan's (1994) review of the details of women's infractions subsumed under the category "violation of posted rules" included such offenses as "excessive artwork ('too many family photographs on display'), failing to eat all the food on their plates, and for talking while waiting in the pill line" (p.85). Possession of contraband could include such things as an extra bra or pillowcase, peppermint sticks, or a properly borrowed comb or hat. Finally, "trafficking" and "trading" included instances of sharing shampoo in a shower and lighting another inmate's cigarette (p. 85).

McClellan (1994) concluded by observing that there exists "two distinct institutional forms of surveillance and control operating at the male and female facilities . . . this policy not only imposes extreme constraints on adult women but also

costs the people of the State of Texas a great deal of money" (p. 87). Research like this provides clear evidence that women in prison are overpoliced and overcontrolled in institutional settings—a finding earlier researchers have noted, as well (see Burkhart, 1973; Mann, 1984). Whether this is an extension of historic interests in women's sexual behavior or whether, more prosaically, it is a function of the fact that, if men were controlled to the extent women were, they would probably riot, is unclear.

What is clear from all these accounts is that women in modern prisons may be subjected to the worst of both worlds. If McClellan's (1994) findings can be extended to other states, women in modern prisons continue to be overpoliced and overcontrolled (a feature of the separate-spheres legacy of women's imprisonment). At the same time, they are also the recipients of a form of equality that results in abuses that are probably unparalleled in male institutions (e.g., sexual exploitation by guards and degrading strip searches). Beyond this, correctional leaders are, in some cases, implementing grossly inappropriate and clearly male-modeled interventions, such as chain gangs and even boot camps, to deal with women's offenses (Elis, MacKenzie, & Simpson, 1992).

The enormous and rapid increase in women's imprisonment has clearly overwhelmed correctional officials who must scramble to come up with space, let alone programs, for the thousands of women coming through the doors (see Morash & Bynum, 1996). Yet prior to these huge population increases, things were not necessarily good for women inmates. Women inmates have never had the same range of programs as male offenders; this was often justified by their low numbers (see Pollock-Byrne, 1990). Because the current imprisonment boom has affected men's and women's facilities, even with larger numbers in women's prisons, women's special needs are unlikely to receive serious attention any time soon.

Some efforts have been made nationally, especially in improving the connection of children with their incarcerated mothers. For example, in California, some nonviolent female drug offenders are sentenced to Family Foundations, a community-based, residential drug treatment program, where they live with their children who are six and younger. The Women's Prison Association in New York assists women offenders in addressing the critical issues involved in women's pathways toward crime and in their successful return to the community after prison; these issues include substance abuse problems, victimization experiences, family disruption, housing needs, and vocational and employment issues (Conly, 1998). Lastly, the Children's Center in Bedford Hills, New York, allows women offenders to reside with their children until the children are one year of age. The women learn "to be good mothers," and the focus is on the women's mental health needs (National Institute of Justice, 1998, p. 8).

Despite programs such as these, there still exists a paucity of alternative and innovative approaches available to address women offenders' issues. A 1998 National Institute of Justice study demonstrates this point: in the study, state and prison-level administrators were asked to identify innovative programs for women in prison in their jurisdictions. Only three states reported high levels of innovative

programming for women; 34 states identified none or limited availability (p. 6). On a more global level, given the differences between male and female prisoners, it seems extremely unlikely that women's experience of imprisonment will ever mirror men's experience—no matter how often the legal system insists on a gender-neutral stance. Nor, if the lessons are learned from these scandals, should women be treated as though they are men.

The abuses mentioned earlier force us to ask whether a gender-blind approach to imprisonment is fair or just. Is it the case that female prisoners are "disappearing" politically, in a country haunted by images of male drug kingpins and violent predators, because their convictions bolster those who are cynically manipulating the system and the public's fears to win an election? Finally, as the nation becomes increasingly aware of the surge in women's imprisonment from news accounts (LeBlanc, 1996), we need to question whether tax dollars spent on women's imprisonment could be better spent on programs for women in the community.

POLICY IMPLICATIONS AND WOMEN'S IMPRISONMENT

The United States now imprisons more people than at any time in its history and has the world's highest incarceration rate (Mauer, 1999, 2006). On any given day, over a million people are locked up, and an unprecedented number of prison cells are being planned. As a result, the fastest-growing sector of state and local economies, nationally, is correctional employment, which increased 108% during the 1990s, whereas total employment increased by just 13.5% (Center for the Study of the States, 1993, p. 2). Women in conflict with the law have become the hidden victims of the nation's imprisonment binge. Women's share of the nation's prison population, measured in either absolute or relative terms, has never been higher. Women were 4% of the nation's imprisoned population shortly after the turn of the 20th century. By 1970, the figure had dropped to 3%. By 2010, however, more than 7% of those incarcerated in state prisons in the country were women.

Is this increase in women's imprisonment being fueled by a similarly dramatic increase in serious crimes committed by women? The simple answer is *no*. As has been shown, the proportion of women in prison for violent crimes has dropped steadily, and the numbers of women incarcerated for petty drug and property offenses have soared. Large increases in women's imprisonment are due to changes in law-enforcement practices, judicial decision making, and legislative mandatory sentencing guidelines, rather than a shift in the nature of the crimes women commit.

As a nation, we face a choice. We can continue to spend our shrinking tax dollars on the pointless and costly incarceration of women guilty of petty drug and property crimes, or we can seek other solutions to the problems of drug-dependent women. Because so many of the women in prison in California are driven to drug use because of poverty and abuse, the real question before us is: detention or prevention?

The expansion of the female prison population has been fueled primarily by increased rates of incarceration for drug offenses, not by commitments for crimes of

violence. The majority of women in America's prisons are sentenced for nonviolent crimes that are all too often a direct product of the economic marginalization of the women who find their way through the prison doors. As we have seen, changes in criminal justice policies and procedures over the past decade have contributed to the dramatic growth in the female prison population. Mandatory prison terms and sentencing guidelines are gender-blind and, in the crusade to get tough on crime, criminal justice policymakers have gotten tough on women, pushing them into jails and prisons in unprecedented numbers.

Most of these female offenders are poor, undereducated, unskilled, victims of past physical or sexual abuse, and single mothers of at least two children. They enter the criminal justice system with a host of unique medical, psychological, and financial problems.

The data summarized in this chapter suggest that women may be better served in the community because of the treatable antecedents and less serious nature of their crimes. A growing number of states are beginning to explore nonincarcerative strategies for women offenders, such as the ones aforementioned. Commissions and task forces charged with examining the effect of criminal justice policies on women are recommending sentencing alternatives and the expansion of community-based programs that address the diverse needs of women who come into conflict with the law.

In California, the Senate Concurrent Resolution (SCR) 33 Commission on Female Inmate and Parolee Issues examined the needs of women offenders. The commission's upcoming report is based on three central concepts:

1. Female inmates differ significantly from males in terms of their needs, and these gender-specific needs should be considered in planning for successful reintegration into the community.
2. Women are less violent in the community and in prison, and this fact provides opportunities to develop nonprison-based programs and intermediate sanctions without compromising public safety.
3. Communities need to share the responsibility of assisting in this reintegration by providing supervision, care, and treatment of women offenders (Bloom et al., 1994).

Although coming under some criticism in its effectiveness, California began a more gendered approach to corrections by developing nonprison institutions that housed incarcerated mothers with their children (see Haney, 2010).

Despite the growth of the female prison population, there has not been a commensurate increase in research devoted to the needs of these women, nor in designing prison treatment, discharge, and reentry programs specifically for female prisoners (Balis, 2007). One study (Morash, 2010) compared two sorts of philosophical approaches to supervision on probation and parole: one focused on compliance with rules and "equality" between male and females and the other focused on "gender responsive" issues in two Michigan counties. Reviewing probation and parole

recidivism, Morash found that if attention is paid to women's unique-problems needs in a gender-responsive fashion (like focusing on domestic violence and the role of trauma in women's drug use), then building on women's strengths (e.g., the importance of relationships) produces better services and lower over-all recidivism. More importantly, she did not find that the gender-responsive approach backfired, sending more women back to jail or prison because of the more intensive supervision offered low-level female offenders, as some feared, because earlier studies of intensive supervision had produced just that outcome (pp. 147–148).

Overcrowding and overuse of women's prisons can be avoided by planning creatively for reduced reliance on imprisonment for women while reimagining and reinventing probation and parole to focus on gendered needs as well as cutting edge research on issues like drug addiction, trauma, and other challenges that plague women in the criminal justice system. Many advocate a moratorium on the construction of women's prisons and a serious commitment to the decarceration of women. They believe that every dollar spent locking up women could be better spent on services that would prevent women from resorting to crime. As one prisoner at the Central California Women's Facility commented,

> You can talk to them about community programs. I had asked my P.O. for help—but his supervisor turned him down. I told him that I was getting into a drinking problem, asked if he could place me in a place for alcoholics but he couldn't get permission. I was violated with a DUI—gave me eight months. I think people with psychological problems and with drug problems need to be in community programs. (Bloom et al., 1994, p. 8)

There are a range of effective residential and nonresidential community-based programs serving women offenders throughout the nation. Austin, Bloom, and Donahue (1992) reviewed limited program evaluation data and found the following common characteristics that appeared to influence successful program outcomes: continuum of care design, clearly stated program expectations, rules and sanctions, consistent supervision, diverse and representative staffing, coordination of community resources, and access to ongoing social and emotional support. They also suggested that promising approaches are multidimensional and deal specifically with women's issues.

As this chapter has indicated, we know what to do about crime, particularly crime committed by women. Any review of the backgrounds of women in prison immediately suggests better ways to address their needs. Whether it be more funding for drug treatment programs, more shelters for the victims of domestic violence, or more job training programs, the solutions to their problems are obvious. The question remains: Do we as a society have the courage to admit that the war on drugs (and indirectly on women) has been lost and at a great price (see Baum, 1996)? The hidden victims of that war have seen their petty offenses criminalized and their personal lives severely disrupted. *Is this our only choice?*

This chapter has suggested another choice. By focusing on strategies that directly address the problems of women on the economic and political margins rather than

expensive and counterproductive penal policies, the pointless waste of the nation's scarce tax dollars could be stopped. To do this, there must be changes in public policy so that the response to women's offenses addresses human needs rather than the short-sighted objectives of lawmakers who often cannot see beyond the next sound bite or election. The greed of what might be called the *correctional industrial complex* must also be addressed. This term refers to those who benefit from prison construction (such as architectural and construction companies, unions representing prison guards, etc.), who might well seek to replace the mindless spending of the cold war with the equally mindless but profitable incarceration of the nation's poor and dispossessed.

Now that we have entered the new millennium, there are actually a few indications that some states are beginning to reexamine their incarceration practices. So, although the rate of women's imprisonment does stand at an historic high, the first decade of the new century saw several years in which the female rate of increase in imprisonment fell behind that of the male rate of increase. In 2009, fewer females (down 1%) were incarcerated than in 2008 (Bureau of Justice Statistics, 2010c).

Several states long associated with the women's imprisonment boom—notably California and New York—actually saw decreases in the number of women in their prisons. In California, the decrease that accelerated in 2001 was clearly tied to the passage of Proposition 36. This initiative, passed in 2000, diverted most people convicted of nonviolent drug possession to programs instead of prison. In the short time since its inception, it has caused the number of women sent to California prisons to drop by 10% (Martin, 2002, p. 1). The drop actually encouraged two Democratic lawmakers to propose closing one or two of California women's prisons in an attempt to address the state's budget deficit (p. 1).

California's experience provides a valuable lesson to the rest of the nation. Given the characteristics of the women in prison, it is clear that the decarceration of almost all of the women in United States prisons would not jeopardize public safety. Furthermore, the money saved could be reinvested in programs designed to meet women's needs, which would enrich not only their lives but the lives of many other women who are at risk for criminal involvement. Finally, by moving dollars from women's prisons to women's services, we will not only help women—we also help their children. In the process, we are also breaking the cycle of poverty, desperation, crime, and imprisonment, rather than perpetuating it.

DISCUSSION QUESTIONS

1. How has the war on drugs become a war against women, particularly African American women? Why do we have so many female drug offenders behind bars?

2. Compare and contrast the life histories of incarcerated women to incarcerated men. In what ways does gender matter in the lives of women who find themselves under the control of the criminal justice system?

3. This chapter has underscored several ways prison policies and supervision techniques in women's prisons are "male-modeled." How can we reshape these policies from being male-modeled to female-sensitive?

4. Imagine the United States implemented a nationwide policy to decarcerate women who are nonviolent offenders. What would be the positive and negative effects of such a policy?

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- Women and Prison: A Site for Resistance
  http://womenandprison.org/
- The Action Committee for Women in Prison
  http://www.acwip.net/
- The Sentencing Project
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